

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

IN RE:	§	CASE NO. 09-60219
	§	
DAVID WAYNE PUTNEY	§	
	§	
DEBTOR	§	CHAPTER 7

DEBTOR'S MOTION TO AVOID JUDGEMENT LIEN

TO THE HONORABLE FRANK R. MONROE, BANKRUPTCY JUDGE FOR THE
WESTERN DISTRICT OF TEXAS, WACO DIVISION:

**THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO
YOUR INTERESTS.**

**IF NO TIMELY RESPONSE IS FILED WITHIN TWENTY (20) DAYS
FROM THE DATE OF SERVICE, THE RELIEF REQUESTED HEREIN
MAY BE GRANTED WITHOUT A HEARING BEING HELD.**

**A TIMELY FILED RESPONSE IS NECESSARY FOR A HEARING TO
BE HELD.**

NOW COMES, David Putney, the Debtor in the above referenced bankruptcy case (the
"Debtor"), and files this his Motion to Avoid Judgement Lien and in support thereof would
respectfully show unto this Honorable Court as follows:

1. The Debtor has filed a Chapter 7 bankruptcy case. James Studenksy has been
appointed as the Chapter 7 Trustee in this case.
2. Prior to the filing of this bankruptcy case, David Putney was the Defendant in a
lawsuit styled New South Federal Savings Bank v. David Putney which was pending in the

County Court at law No. 2 of McLennan County, Texas. An Abstract of Judgement was filed by the Plaintiff in the Deed Records of McLennan County, Texas. A copy of that Abstract of Judgment is attached hereto as Exhibit "A".

3. The Debtor owns property which comprises his homestead and described as 6722 Sylvia Avenue, China Spring, Texas 76633.

4. The Debtor would show that this Abstract of Judgement creates a lien that is avoidable pursuant to 11 U.S.C. §522(f) because it is not a purchase money lien, a home improvement loan, a home equity loan, a tax lien or an owelty of partition. It is therefore avoidable pursuant to 11 U.S.C. §522(f).

WHEREFORE, PREMISES CONSIDERED, the Debtor hereby respectfully requests this Court to enter an order allowing him to avoid the judgement lien of New South Federal Savings Bank on his homestead at 6722 Sylvia Avenue, China Spring, Texas 76633 and for such other and further relief as is just.

Respectfully submitted,



/s/Erin B. Shank

ERIN B. SHANK, P.C.

Texas State Bar Number 01572900

1902 Austin Avenue

Waco, TX 76701

PHONE (254) 296-1161

FAX (254) 296-1165

ATTORNEY FOR DEBTOR

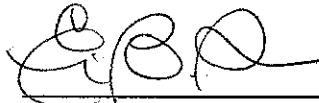
CERTIFICATE OF SERVICE

I certify that on February 27, 2009 a correct copy of the above and foregoing was served upon the following parties via electronic means as listed on the court's ECF noticing system or by regular first class mail:

Alan B. Padfield
Lively, Padfield & Stout, LLP
1155 Burnett Plaza
801 Cherry Street
Unit 20
Ft Worth, TX 76102

David Putney
9900 China Spring Highway, Apt. 1107
Waco, TX 76708

James Studensky
3912 W. Waco Dr.
Waco, TX 76710



/s/Erin B. Shank



ABSTRACT OF JUDGMENT

**THE STATE OF TEXAS,
COUNTY OF MCLENNAN**

I, J.A. "ANDY" HARWELL, Clerk of the COUNTY COURT-AT-LAW NO. 2 of McLennan County, Texas do hereby certify that in a certain suit pending in said Court, wherein

NEW SOUTH FEDERAL SAVINGS BANK

versus

Birthdate: AUGUST 30, 1974

DAVID PUTNEY

No. 20030676 CV2 , 1 The Plaintiff

NEW SOUTH FEDERAL SAVINGS BANK

AT 215 N 21ST

BIRMINGHAM

AL 35203

recovered judgment against said Defendant(s)

DAVID PUTNEY

AT 6722 SYLVIA

CHINA SPRING

TX 76633

on the 23RD of JUNE , 2003 for

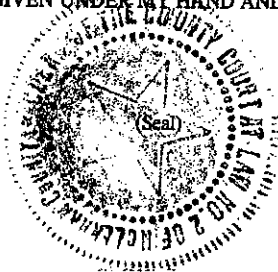
JUDGMENT IN THE SUM OF \$9,838.22, PRE-JUDGMENT INTEREST AT THE CONTRACT RATE OF 11.25%, FROM MAY 22, 2003 UNTIL DATE OF JUDGMENT, POST-JUDGMENT INTEREST AT THE RATE OF 10.00% PER ANNUM FROM THE DATE OF JUDGMENT, TOGETHER WITH REASONABLE AND NECESSARY ATTORNEY'S FEES IN THE SUM OF \$700.00, WITH INTEREST THEREON AT THE RATE OF 10.00% PER ANNUM FROM DATE OF JUDGMENT, and \$219.00 costs of suit. Said judgment of record in Volume B44 Page 681

records of the COUNTY COURT-AT-LAW NO. 2 . Said judgment is entitled to following credits, to-wit:

NONE OF RECORD

There is now still due on said judgment all of the amounts as set out above.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, in Waco, Texas, this 1ST day of AUGUST , 2003.



J.A. "ANDY" HARWELL, Clerk

COUNTY COURT-AT-LAW NO. 2

P.O. Box 1727

McLennan County, Waco, Texas 76703

By *Pat Landrum*, Deputy
PAT LANDRUM

Form ABST, Rev. 6/2000

NOT 20030676 CV2 2 Pgs

Lively Padfield & Stout
801 Cherry St
Unit 20
St Worth, TX 76102
(E)

FILED AND RECORDED
OFFICIAL PUBLIC RECORDS

J.A. "Andy" Harwell

2003 AUG 21 10:14 AM 2003034383

WRIGHT \$11.00

J.A. "ANDY" HARWELL, COUNTY CLERK
MCLENNAN COUNTY, TEXAS